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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R1-ES-2016-0006; FXES1113090000C6-167-FF09E42000]

RIN 1018-BA89

Endangered and Threatened Wildlife; Technical Corrections for Eight Wildlife Species on the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Partial withdrawal of direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are withdrawing, in part, a February 17, 2016, direct final rule that revises the taxonomy of eight wildlife species under the Endangered Species Act of 1973, as amended (Act). For the Newell's Townsend's shearwater (*Puffinus auricularis newelli*), we received significant adverse comments relating to additional scientific research relevant to its taxonomic classification; therefore, we are withdrawing the amendments in the direct final rule for this species only. The amendments in the direct final rule for the other seven species (Oahu elepaio (*Chasiempis ibidis*), Kauai akialoa (*Akialoa stejnegeri*), akiapolaau (*Hemignathus wilsoni*), Kauai nukupuu (*Hemignathus hanapepe*), Maui nukupuu (*Hemignathus affinis*), Hawaii akepa (*Loxops coccineus*), and Maui akepa (*Loxops ochraceus*)) will be effective on May 17, 2016.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the Service withdraws amendatory instructions 2.f and 2.g published at 81 FR 8007 on February 17, 2016.

ADDRESSES: The direct final rule may be found online at <http://www.regulations.gov> under Docket No. FWS–R1–ES–2016–0006.

FOR FURTHER INFORMATION CONTACT: Marilet Zablan, Program Manager for Restoration and Endangered Species Classification, U.S. Fish and Wildlife Service, Pacific Regional Office, Ecological Services, 911 NE 11th Avenue, Portland, OR 97232; telephone 503–231–6131. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY (telephone typewriter or teletypewriter) assistance 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

Our regulations at 50 CFR 17.11(b) direct us to use the most recently accepted scientific names for species on the List of Endangered and Threatened Wildlife (50 CFR 17.11(h)). Accordingly, on February 17, 2016, we published in the **Federal Register** a direct final rule (81 FR 8004) to revise the taxonomy and nomenclature of eight Hawaiian bird species listed under section 4 of the Act (16 U.S.C. 1531 *et seq.*). All of these changes are supported by peer-reviewed scientific studies and reflect the taxonomy that has been accepted by the American Ornithologists’ Union (AOU) in the most recent supplements to the Check-list of North American Birds. Specific references relevant to each species are cited in the text of the February 17, 2016, direct final rule, and are posted as supporting documents at <http://www.regulations.gov> under Docket No. FWS–R1–ES–2016–0006.

Consequently, we published the direct final rule without a prior proposal because we considered it a noncontroversial action that was in the best interest of the public and should be undertaken in as timely a manner as possible. We stated that if we received significant adverse

comments regarding the taxonomic changes for any of these species, we would publish a document in the **Federal Register** withdrawing this rule for the appropriate species before the effective date. Significant adverse comments are comments that provide strong justifications as to why the rule should not be adopted or why it should be changed.

Comments on the Direct Final Rule

We received three comments on the direct final rule. One of these comments called our attention to recently published genetic research on shearwaters (Martínez-Gómez *et al.* 2015) that recommends maintaining the Hawaiian taxon *newelli* (Newell's Townsend's shearwater, or Newell's shearwater) as a subspecies of the Townsend's shearwater, under the scientific name *Puffinus auricularis newelli*. This recommendation is contrary to the determination of the direct final rule and the AOU Checklist Committee (Chesser *et al.* 2015) that Newell's shearwater is a distinct species (*Puffinus newelli*). The commenter requested that this discrepancy be further considered before we adopt the taxonomic change set forth in the direct final rule. Another commenter discussed behavioral differences between Newell's shearwater and Townsend's shearwater, while also providing a link to an article summarizing the Martínez-Gómez research results. We concur that these comments are significant and that the taxonomic status of Newell's shearwater merits further consideration. Therefore, we are withdrawing that portion of the direct final rule concerning the listed entity Newell's Townsend's shearwater (*Puffinus auricularis newelli*). In the future, we may propose changes in the taxonomy of Newell's Townsend's shearwater with opportunity for further public comment.

Other topics discussed in the comments were not specific to the taxonomic issues raised in the direct final rule. We did not receive significant adverse comments concerning the taxonomy of the Oahu elepaio, Kauai akialoa, akiapolaau, Kauai nukupuu, Maui nukupuu,

Hawaii akepa, or Maui akepa.

Partial Withdrawal of the Direct Final Rule

For the reasons stated above, we withdraw amendatory instructions 2.f and 2.g of the direct final rule published on February 17, 2016, at 81 FR 8004–8007.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 28, 2016.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

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